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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,497	12/21/2001	Bradley E. Goff	22062-3	2014

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08/27/2003

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EXAMINER

BUI, LUAN KIM

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 08/27/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/027,497	GOFF, BRADLEY E.	
	Examiner	Art Unit	
	Luan K Bui	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18,24,26 and 28 is/are rejected.
- 7) ☒ Claim(s) 19-23,25,27,29 and 30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

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Drawings

1. The drawings were received on 4/17/2002. These drawings are approved by the Examiner.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrases “an upper end” and “a lower end” lack proper antecedent basis because the specification only refers to as an upper frame member or a lower frame member. The phrases “said lower frame” and “said upper frame” in claim 5 through claim 17 lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 13 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Menendez (4,694,961). Menendez discloses an organizer (10) comprising an organizer body having an upper frame member (16) removably connected to a lower frame member (18). The

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upper frame member providing a storage unit (15) and the lower frame member providing a second storage unit (19) having a plurality of compartments. The storage unit of Menendez is inherently capable of retaining a plurality of pill bottles in fixed locations and the second storage unit is also inherently capable of receiving a supply of pills to be taken on a periodic basis.

Menendez further discloses a handle (12) (Figures 1-4).

6. Claims 1-3 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Smalley (3,160,306). Smalley discloses an organizer (10, 12) comprising an organizer body having an upper frame member (32) removably connected to a lower frame member (10, 20). The upper frame member providing a storage unit (34) and the lower frame member providing a second storage unit (24) having a plurality of compartments. The storage unit of Smalley is inherently capable of retaining a plurality of pill bottles in fixed locations and the second storage unit is also inherently capable of receiving a supply of pills to be taken on a periodic basis.

7. Claims 1, 2, 4-6, 24, 26 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Denney (4,749,085). Denney discloses an organizer (10) comprising an organizer body having an upper end, a lower end and side walls connecting the upper end and the lower end (Figure 3). A storage unit (23) and a second storage unit (23) having a plurality of compartments. The storage unit of Denney is inherently capable of retaining a plurality of pill bottles in fixed locations and the second storage unit is also inherently capable of receiving a supply of pills to be taken on a periodic basis. The second storage unit comprises a plurality of individual pill trays (23) and each tray having a lid (26).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Menendez (4,694,961) in view of Official Notice. Menendez discloses the organizer as above having all the limitations of the claims except for the handle being in a lateral position to facilitate nestable relationship. Official Notice is taken of the old and conventional practice of providing a handle connected to a tray having an upright position for carrying the tray and a lateral position to facilitate nestable relationship. It would have been obvious to one having ordinary skill in the art in view of Official Notice of providing the handle having a lateral position to facilitate nestable relationship of the organizers.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smalley (3,160,306) in view of Coy (5,062,531). Smalley discloses the organizer as above having all the limitations of the claims except for the upper frame includes a panel defining a plurality of openings of differing size. Coy discloses a tray (10) having a plurality of openings (24-34) of differing size. It would have been obvious to one having ordinary skill in the art in view of Coy to modify the upper frame of Smalley so the openings are of differing size for carrying differing size of bottles.

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Allowable Subject Matter

11. Claims 7-12, 15 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

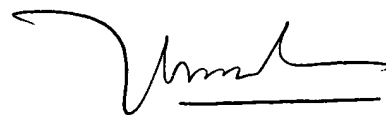
12. Claims 19-23, 25, 27, 29 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 872-9301. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
August 22, 2003



Luan K. Bui
Primary Examiner